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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/721,790	11/22/2000	Charles R. Simmers	113622-150366	3981

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EXAMINER	
LEWIS, DAVID LEE	
ART UNIT	**PAPER NUMBER**
2629	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/721,790	SIMMERS, CHARLES R.	
	Examiner	Art Unit	
	DAVID L. LEWIS	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6 and 19-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-6 and 19-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The final rejection mailed on 9/21/2007 is hereby vacated and replaced with the following final rejection. Review of the record has found some insufficiencies with the instant reissue application that preclude allowance "after final".

2. The after final amendment filed on 10/30/2007 is entered as a matter of right. Claims 7-18 are cancelled. Therefore claims 1-6 and 19-33 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1, 4, 5, and 19-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Nomura et al. (5881299).**

As in claim 1, Nomura et al. teaches of in an information device, **figures 1-4, 7, and 8**, having a CPU, **figure 1 item 10**,

display controller and a display panel, **figure 1 items 14 and 18**,

said display panel split logically into sub-panels, **figure 1 items Area1 and Area2**,

an apparatus comprising: a plurality of segment drivers coupled between said display panel and said display controller, said segment drivers receiving input data from said controller, **figure 1 items 18 (d, e, c, b)**,

said segment drivers translating said data into pixels displayable on said display panel, **figure 1 items Area2 and Area1**;

and a power control block coupled to said CPU and to said segment drivers to disable a first power source which powers down a first set of said segment drivers, **figure 1 items 20 and 22**,

said powering down disabling a first set of sub-panels of said display panel from outputting pixels, **figure 1 area 2**, **column 6 lines 23-31**,

said power control block disabling said first power source upon receiving a command from said CPU that said first set of sub-panels are to be powered down, **figure 1 items 20 and 10, column 6 lines 23-31,**

said information device functioning as one of a cellular communications device, **figure 1 item 28**, and a personal digital assistant, **figure 1 item 12, figure 4 items area 1 and area 2, column 5 lines 20-25 and 63-64**,

said first set of sub-panels displaying information relevant to said personal digital assistant function**, figure 4 item area 2**, **(phonebook name and number data)**,

further wherein said display panel includes a second set of sub-panels displaying information relevant to said cellular communications function, **figure 4 item area 1, (cellular reception {electric field} signal and cellular power), column 5 lines 1-7,**

wherein said first and second sets of sub-panels comprise an identical vertical resolution**, figure 8 item 105b (areas 1 and 2 have the same vertical line resolution)**.

Wherein Nomura et al. teaches of a cellular communications device comprising a display partitioned into two areas. The first area displays phone book data, and the second area displays electric field strength and battery power. As controlled by a CPU 10, the first and second display areas are capable of simultaneously display, as well as exclusive display, such that the second display area may be active while the first display area is powered off. The vertical resolution of the display is evidenced by the data lines extending from the segment driver 105b, common to the first and second area.

To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently. In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). Under the principles of inherency, if the prior art necessarily functions in accordance with, or includes, the claimed limitations, it anticipates. See In re King, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986).

Therefore, because Nomura teaches of each and every element as outlined above, the claimed invention is anticipated.

As in claim 4, Nomura et al. teaches of wherein said information device has a normally open latch, said power control block to disable said first power source when said latch is closed, figure 1 item 26, column 4 lines 35-46.

As in claim 5, Nomura et al. teaches of in an information device, **figure 8**,

having a CPU, **figure 8 item 100**,

display controller, **figure 8 item 101**,

and two display panels, **figure 8 items Area1 and Area2**,

an apparatus comprising: a first set of segment drivers coupled to said display controller to receive as input a first set of data, said first set of segment drivers translating said first set of data into pixels output on a first of said display panels, **figure 8 items 105b and 105c**;

a second set of segment drivers coupled to said display controller and said first set of segment drivers to receive a second set of data, said second set of segment drivers translating said second set of data into pixels output on a second of said display panels, **figure 8 items 105b and 105d**;

and a power control block coupled to said CPU and to said first and second set of segment drivers to disable a first power source which powers down said second set of segment drivers, said powering down disabling said second display panel from outputting pixels, said information device functioning as one of a cellular communications device and a personal digital assistant, said second display panel displaying information relative to said personal digital assistant function, further wherein said first display panel displaying information relevant to said cellular communications function, **figure 8 items 101 and 106**, wherein the controller 101 coupled to the CPU 100 inputs power from the power supply 106, and controls input power for drivers 105, turning on/off the power supply of the liquid crystal under the control of the CPU, **column 7 lines 10-15, column 8 lines 10-67**,

wherein said first and second sets of sub-panels comprise an identical vertical resolution, **figure 8 item 105b, (areas 1 and 2 have the same vertical line resolution)**.

Wherein Nomura et al. teaches of a cellular communications device comprising a display partitioned into two areas. The first area displays phone book data, and the second area displays electric field strength and battery power. As controlled by a CPU 100, the first and second display areas are capable of simultaneously display, as well as exclusive display, such that the second display area may be active while the first display area is powered off. The switching portion 101a of the display controller 101 helps it serve as a power control block for disabling power to the segment drivers in addition to distributing control information to the segment drivers for the purpose of displaying pixel information. The vertical resolution of the display is evidenced by the data lines extending from the segment driver 105b, common to the first and second display area.

To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently. In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). Under the principles of inherency, if the prior art necessarily functions in accordance with, or includes, the claimed limitations, it anticipates. See In re King, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986).

Therefore, because Nomura teaches of each and every element as outlined above, the claimed invention is anticipated.

As in claim 19, **Noruma et al.** teaches of an apparatus, **figure 1 or 8**,

comprising: a display controller, **figure 1 item 10 or figure 8 item 100**,

adapted to disable a first portion of a display while enabling a second portion of a display, **column 6 lines 15-31, column 8 lines 55-61**,

the first portion of the display adapted to display information from a wireless communication device, **figure 4 item Area1**, **column 5 lines 33-58,**

and the second portion of the display adapted to display information from a personal digital assistant, **figure 4 item Area2, column 5 lines 33-58**,

wherein said first and second portions of the display comprise an identical vertical resolution**, figure 8 item 105b, (areas 1 and 2 have the same vertical line resolution)**.

Wherein Nomura et al. teaches of a cellular communications device comprising a display partitioned into two areas. The first area displays phone book data, and the second area displays electric field strength and battery power. As controlled by a CPU 10 or 100, the first and second display areas are capable of simultaneously display, as well as exclusive display, such that the second display area may be active while the first display area is powered off. Further, the first and second display areas may simultaneously display phone book data. The CPU 10 controls the LCD controller as well as the power supply controller, which facilitate the displayed pixel information according to information received at the segment drivers from the LCD controller. Whereby the CPU 10 or 100 controls display area disablement via instructions sent to the power supply controller or LCD controller.

To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently. In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). Under the principles of inherency, if the prior art necessarily functions in accordance with, or includes,

the claimed limitations, it anticipates. See In re King, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986).

Therefore, because Nomura teaches of each and every element as outlined above, the claimed invention is anticipated.

As in claim 20, **Nomura et al.** teaches said wherein the display controller is further adapted to enable the first portion of the display while disabling the second portion of the display, column 4 lines 30-46, column 6 lines 14-60, column 8 lines 55-61.

As in claim 21, **Nomura et al.** teaches further comprising at least two segment drivers coupled to the display and controller, figure 1 item 18 (d, e, c, b).

As in claim 22, **Nomura et al.** teaches wherein the first portion of the display is physically contiguous with the second portion of the display, figures 3 items Area1 and Area2.

As in claim 23, Nomura et al. teaches wherein the first portion of the display is physically separated from the second portion of the display, figure 1 items Area1 and Area2

As in claim 24, **Nomura et al.** teaches of a method, **figures 1, 4, 8, and 10**,

comprising: displaying information related to a wireless communication device on a first portion of a display, **column 6 lines 17-55, column 9 lines 1-7, figure 4 item Area1**;

disabling the first portion of the display, **column 8 lines 43-65**;

and displaying information related to a personal digital assistant on a second portion of the display, **column 3 lines 53-59**, **column 4 lines 17-55, column 8 lines 43-65**, **figure 4 item Area2;**

wherein said first and second portions of the display comprise an identical vertical resolution**, figure 8 item 105b, (areas 1 and 2 have the same vertical line resolution)**.

Wherein Nomura et al. teaches of a cellular communications device comprising a display partitioned into two areas. The first area displays phone book data, and the second area displays electric field strength and battery power. As controlled by a CPU 10 or 100, the first and second display areas are capable of simultaneously display, as well as exclusive display, such that the second display area may be active while the first display area is powered off. Further, the first and second display areas may simultaneously display phone book data. As shown in column 8 lines 43-65 and figure 8 of Nomura et al., the LCD controller drives driver 105c or 105d so as to display information on only area1 or area2. The selectivity for the active display areas of the device is controlled manually by user input to a switch 26, a key set 21, or stylus input, which is processed by the program executed on the CPU 10 or 100.

To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently. In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). Under the principles of inherency, if the prior art necessarily functions in accordance with, or includes, the claimed limitations, it anticipates. See In re King, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986).

Therefore, because Nomura teaches of each and every element as outlined above, the claimed invention is anticipated.

Further as in claim 25, **Nomura et al.** wherein disabling the first portion of the display occurs substantially simultaneously with displaying information on the second portion of the display, column 8 lines 43-65.

As in claim 26, **Nomura et al.** teaches of further comprising displaying information related to the wireless communication device after disabling the second portion of the display, column 7 lines 15-20.

As in claim 27, **Nomura et al.** teaches of further comprising displaying information related to the wireless communication device substantially simultaneously with displaying information related to the personal digital assistant on the second portion of the display, column 5 lines 49-67.

As in claim 28, Nomura et al. teaches of an article comprising: a storage medium having stored thereon instructions that when executed by a computing platform results in displaying information on a first portion of a display, wherein the information is related to a wireless communication module, **figure 1 item 12**, **column 7 lines 1-21**;

displaying information on a second portion of a display, wherein the information is related to an application program running on the computing platform, **figure 4 item Area 2**, **column 7 lines 1-20**;

and disabling the first portion of the display while displaying information on the second portion of the display, **column 7 lines 1-20, column 8 lines 55-61**,

wherein said first and second portions of the display comprise an identical vertical resolution**, figure 8 item 105b, (areas 1 and 2 have the same vertical line resolution)**.

Wherein Nomura et al. teaches of a cellular communications device comprising a display partitioned into two areas. The first area displays phone book data, and the second area displays electric field strength and battery power. As controlled by a CPU 10 or 100, the first and second display areas are capable of simultaneously display, as well as exclusive display, such that the second display area may be active while the first display area is powered off. Further, the first and second display areas may simultaneously display phone book data. As shown in column 8 lines 43-65 and figure 8 of Nomura et al., the LCD controller drives driver 105c or 105d so as to display information on only area1 or area2. The selectivity for the active display areas of the device is controlled manually by user input to a switch 26, a key set 21, or stylus input, which are processed by the program executed on the CPU 10 or 100, said program being stored within the ROM 12 or 104.

To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently. In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). Under the principles of inherency, if the prior art necessarily functions in accordance with, or includes, the claimed limitations, it anticipates. See In re King, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986).

Therefore, because Nomura teaches of each and every element as outlined above, the claimed invention is anticipated.

As in claim 29, **Nomura et al.** teaches wherein the instructions, when executed, further result in disabling the second portion of the display with a display controller, figure 10 item S5, column 9 lines 50-56.

As in claim 30, **Nomura et al.** teaches of wherein the instructions, when executed, further result in disabling the first segment driver and disabling a second segment driver, figure 10 item S2, column 9 lines 33-41.

As in claim 31, **Nomura et al.** teaches of wherein the instructions, when executed, further results in disabling the second portion of the display while displaying information on the first portion of the display, column 9 lines 50-56.

As in claim 32, **Nomura et al.** teaches of wherein the instructions, when executed, further results in substantially simultaneously displaying information on a first portion of the display and the second portion of the display, figure 4 and 12, column 9 lines 40-50.

As in claim 33, Nomura et al. teaches of wherein the first and second portions of the display comprise an identical vertical resolution, figure 8 item 105b.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 2, 3, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nomura et al. (5881299) in view of Uchida et al. (5877733).

As in claims 2, 3, and 6, Nomura et al. teaches of an information device as applied above to claims 1 and 5, wherein the first and second display portions are selectively enabled as shown in figure 1. **However Nomura et al. fails to teach** of having a second power source which powers down a second set of segment drivers.

Uchida et al. teaches of a wireless telecommunications device providing a liquid crystal display panel portioned into a first and second portions, wherein each portion has a respective first and second driver and power supplies, figure 1 items 1-5. The display system of Uchida et al. is applicable to the device taught by Nomura because Uchida also teaches of a wireless communication device having a partitioned display, wherein each display portion is driven by a separate driver. Therefore both Uchida and Nomura solve the problem of providing a useful partitioned and segment driven display. Uchida further teaches of the well known use for providing a second power source in a partitioned segment driven display.

Nomura et al. fails to teach of a second power source, however, they teach of a power supply controller that partitions the power supply connections to the first and second display portion drivers, figure 1 item 20, and figure 8 item 101. An obvious design choice available to the skilled artisan would be to provide a second power in the alternative to partitioning a single supply source. This design alternative would make the power distribution more efficient given the display portions differing size and therefore differing power requirements. The smaller display segment would obviously utilize a smaller power source.

Therefore it would have been obvious to the skilled artisan at the time of the invention to combine the second power supply as taught by Uchida with the display system of Nomura because Uchida suggests a second power supply is useful in a segmented display, and further it provides an efficient design

alternative to the problem faced in Nomura's need for providing a segmented display, wherein each segment has a different power requirement relative to the segment size, as found in claims 2-4 and 6.

As in claim 2, Nomura et al. fails to teaches of wherein said power control block disables a second power source which powers down a second set of said segment drivers, said powering down disabling a second set of sub-panels from outputting pixels, said power control block disabling said second power source upon receiving a command from said CPU that said second set of sub-panels are to be powered down. However, for the same reasons of obviousness in view of Uchida as applied above, the modification of Nomura et al. to include a second source supply, while maintaining to the provided selective power saving functionality, would make the above feature inherent to a combination of Nomura et al. and Uchida, and therefore obvious to the skilled artisan at the time of the invention.

As in claim 3, Nomura et al. fails to teaches of wherein said first power source and said second power source are independently switched by said power-control block to enable outputting of pixels on said first set of sub-panels and said second set of sub- panels, respectively. However, for the same reasons of obviousness in view of Uchida as applied above, the modification of Nomura et al. to include a second source supply, while maintaining to the provided selective power saving functionality, would make the above feature inherent to a combination of Nomura et al. and Uchida, and therefore obvious to the skilled artisan at the time of the invention.

As in claim 6, **Nomura fails to teach of** wherein said power control block disables a second power source which powers down said first set of segment drivers, said powering down disabling said first display panel. However, for the same reasons of obviousness in view of Uchida as applied above, the modification of Nomura et al. to include a second source supply, while maintaining to the provided selective power saving functionality, would make the above feature inherent to a combination of Nomura et al. and Uchida, and therefore obvious to the skilled artisan at the time of the invention.

Reissue Applications

5. Upon further review the "Declaration of Inventor" pursuant to 37 CRF § 1.131 filed on 5/9/2007 lacks sufficiency to overcome the rejection in view of Nomura et al.. The Applicant fails to account for the entire period during which diligence is required. The Applicant is reminded that a two day period lacking activity has been held to be fatal. The declaration filed by the Applicant fails to sufficiently addressed all actual dates relied on to establish diligence as required by MPEP 715.07, part II. *"What is meant by diligence is brought out in Christie v. Seybold, 1893 C.D. 515, 64 O.G. 1650 (6th Cir. 1893). In patent law, an inventor is either diligent at a given time or he is not diligent; there are no degrees of diligence. An applicant may be diligent within the meaning of the patent law when he or she is doing nothing, if his or her lack of activity is excused. Note, however, that the record must set forth an explanation or excuse for the inactivity; the USPTO or courts will not speculate on possible explanations for delay or inactivity. See In re Nelson, 420 F.2d 1079, 164 USPQ 458 (CCPA 1970). Diligence must be judged on the basis of the particular facts in each case. See MPEP § 2138.06 for a detailed discussion of the diligence requirement for proving prior invention." Further, "an applicant must account for the entire period during which diligence is*

required. Gould v. Schawlow, 363 F.2d 908, 919, 150 USPQ 634, 643 (CCPA 1966) (Merely stating that there were no weeks or months that the invention was not worked on is not enough.); In re Harry, 333 F.2d 920, 923, 142 USPQ 164, 166 (CCPA 1964) (statement that the subject matter "was diligently reduced to practice" is not a showing but a mere pleading). A 2-day period lacking activity has been held to be fatal. In re Mulder, 716 F.2d 1542, 1545, 219 USPQ 189, 193 (Fed. Cir. 1983) (37 CFR 1.131 issue)." Therefore due to the Applicants insufficient declaration filed on 5/9/2007, the rejection over Nomura et al. is maintained.

6. The reissue oath/declaration filed on 3/19/2001 is defective because the error which is relied upon to support the reissue application is not an error upon which a reissue can be based. See 37 CFR 1.175(a)(1) and MPEP § 1414. The Applicant must note that the error set forth in the originally filed declaration is no longer applicable to the claims in their current state. The declaration filed on 3/19/2001 fails to specify at least one error being corrected in this reissue. Further, due to claim amendments filed after the filing of the 3/19/2001 declaration, a supplemental declaration in accordance with MPEP 1414.01 is required. The Applicant can correct the declaration deficiencies in one combined declaration. It is recommended that the Applicant use FORM PTO/SB/51.

7. Claims 1-32 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175. The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

8. This application is objected to under 37 CFR 1.172(a) as lacking the written consent of all assignees owning an undivided interest in the patent. The consent of the assignee must be in compliance with 37 CFR 1.172. See MPEP §

1410.01. A proper assent of the assignee in compliance with 37 CFR 1.172 and 3.73 is required in reply to this Office action.

9. The original reissue specification and claims were not provided in the required two column format per MPEP 1411, see also 37 CRF 1.173(a)(1) and 4th full paragraph under the rule cite in this section. All reissue applications filed on or after Nov. 7, 2000 require a specification, including the claims to be submitted in the 2 column patent format. Therefore correction is required. The Applicant is advised to review the Observations and Remarks section of the Decision on Appeal, mailed 11/30/2004.

Response to Arguments

10. Applicant's arguments filed 10/30/2007 have been fully considered but they are not persuasive.

The Applicant argues: *"The remaining claims stand substantially as they were originally presented in the preliminary amendment filed November 22, 2002 along with the original reissue oath/declaration. Accordingly, the Applicant believes that no supplemental reissue oath/declaration is necessary (nor was it requested in the Final Office Action)."* The Examiner disagrees. The reissue oath/declaration filed on 3/19/2001 is defective because the error which is relied upon to support the reissue application is not an error upon which a reissue can be based.

The Applicant argues: "this application is now in condition for allowance". The Examiner disagrees. Review of the record has found some insufficiencies with the instant reissue application that preclude allowance. The "Declaration of Inventor" pursuant to 37 CRF § 1.131 filed on 5/9/2007 lacks sufficiency to

overcome the rejection in view of Nomura et al.. The Applicant fails to account for the entire period during which diligence is required. The declaration filed by the Applicant fails to sufficiently addressed all actual dates relied on to establish diligence as required by MPEP 715.07, part II. Therefore the Nomura et al. reference continues to support a case for anticipation and obviousness, as affirmed by a decision on appeal at the Board of Patent Appeals in the instant reissue application. Claims 1, 4, 5, and 19-33 stand rejected as being anticipated over Nomura et al., while claims 2, 3, and 6 stand rejected as being obvious over Nomura et al. in view of Uchida et al.. The current office action is final and replaces the vacated final rejection mailed on 9/21/2007.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **David L. Lewis** whose telephone number is **(571) 272-7673**. The examiner can normally be reached on MTWTHF from 8 to 5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala, can be reached on **(571) 272-7681**. Any

inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571)-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: David L. Lewis

May 9, 2008

/David L Lewis/

Primary Examiner, Art Unit 2629